



**Accompanying Adult Information Packet  
STAKE Act  
Spring/Summer 2014**



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# **1) Informed Consent**

Please read carefully and sign the following informed consent form. Ask any questions you may have. The purpose of the form is to inform you of exactly what you will be asked to do for your participation in the tobacco purchase attempt project(s). You may keep a copy.

## **Purchase Attempt Studies**

### **Informed Consent – Research Assistants**

The purpose of the purchase attempt studies is to assess the frequency of illegal sales of tobacco to minors. Research assistants will be involved in accompanying children while they make purchase attempts.

Assessment of the sales rate will be done by having minors visit the retail outlets and attempt to purchase a pack of cigarettes. Research assistants will accompany children at all times to: 1) ensure the child's safety; 2) ensure that the experimental protocol is being adhered to; 3) perform record keeping activities; and 4) confiscate all purchased tobacco products for disposal by project staff.

For the "Standard" Protocol, each store will be visited by one child. During the visit, the child will go up to the clerk, and ask, "Can I have a pack of Marlboros?" If the clerk agrees to sell the cigarettes, the child will pay for them and leave. If the clerk refuses to sell the cigarettes, the child will just leave the store. If the clerk changes his/her mind about the cigarettes as the child is leaving, the child will pay for these and then leave. If the clerk does not change his/her mind, the child will simply leave the store.

Research assistants will follow the protocol and inform each child prior to going into each store what s/he is to remember, particularly that the child should pay attention to anything the clerk says. If anyone else talks to the child (e.g., comments on how young they are to be buying cigarettes, etc.), the child is instructed to politely ignore them. In any instance, the child is to take note of the ethnic background of the sales clerk, the gender of the clerk, and the presence of other people. If any cigarettes are sold, the child is to keep track of the price. The research assistant will wait outside the retailer with the appropriate data sheet, and the child will report the above information immediately after each transaction for the adult to record.

Before, during, and after this component of the project, all research assistants will participate in group training and education sessions. Child confederates will need to be trained by the research assistants. The focus of these sessions is to: 1) explain the study in detail to all confederates; 2) role play various responses that retailers or children might make; 3) explain about the illegality of the task, and about how they have special permission to attempt to purchase cigarettes only while they are working on this project; 4) provide basic anti-tobacco information to the children to discourage them from initiating tobacco use; and 5) discuss how the project is progressing. Throughout the project, research assistants will discuss with the children that the purchase of cigarettes by persons under the age of 18 is illegal and that they are doing this only by special permission. In addition, research assistants will continue to talk with the children about the negative aspects of tobacco use and about the special circumstance of this project that allows us to pretend the child is a regular customer. Both tobacco use and purchasing tobacco in other circumstances are to be actively discouraged throughout this project.

Research assistants are aware that the purchase of cigarettes by minors is illegal in the State of California. In addition, the sale of single cigarettes is illegal in the State of California. Although we have obtained permission from local law enforcement agencies to conduct this study, children will be performing acts that are illegal. In addition, although research assistants will be given a preferred order in which to visit stores, you should understand that for you and the children for whom you are responsible, safety is of the utmost importance. Thus, at any time you have concerns about safety, feel threatened, or feel there is a potential for harm, you are free to postpone a specified visit to any given store to a time when these concerns are not present. Should this happen, it should be noted on the data sheet, and a project staff person should be informed. Thus, at all times you have minute-to-minute control of what children are doing and can take whatever steps are necessary to ensure both your and the children's safety.

I have read the above and understand that I am agreeing to participate in a study of the illegal sale of tobacco products to minors. During the study, I will accompany children while they make both non-tobacco and tobacco purchase attempts. For the purchase attempts I will drive the children to the stores involved and will remain inside or outside the store and be available to collect the necessary data. In addition, I will participate in the scheduled training, educational sessions, and meetings.

I further understand that I am serving as a research assistant for this project. The information I collect about the legal or illegal behavior of any specific retailer is to be kept confidential and not discussed with anyone outside of project staff. I further understand that I can withdraw my consent and cease participation at any time. However, if that happens I will no longer be employed as a research assistant for the project. If I have any questions or problems, I can discuss these with Dr. Elizabeth Klonoff at 594-8642.

I have read the above and agreed to participate in this project.

Print Name \_\_\_\_\_  
research assistant

Signature \_\_\_\_\_  
research assistant

Date \_\_\_\_\_

Witnessed by \_\_\_\_\_  
project staff

Date \_\_\_\_\_

## 2) Safety

*Safety is ALWAYS first!!*

- 1) As the accompanying adult, it is your responsibility to ensure the safety of yourself and the minor participants. **Youth are never to be sent into a potentially volatile or dangerous situation!**
- 2) Maintain a line of sight with the youth at all times.
- 3) If you or the youth find yourselves in any uncomfortable or confrontational situation while in a store or neighborhood, exit the area immediately. No one is to confront a store clerk or customer for any reason.
- 4) Youth are to report any uncomfortable situation immediately to the accompanying adult.
- 5) All participants are to wear seat belts while traveling in a car. Doors should be locked, and every effort made to act in a safety-conscious manor at all times.
- 6) Participants should not jaywalk across streets or walk against red traffic lights.
- 7) Adults are to be cautious drivers and obey all traffic rules.
- 8) Each accompanying adult is to carry a letter from the California Department of Health Services (CDHS) verifying the legitimacy of the surveying activities.
- 9) You should carry with you the phone number of a BHI staff member who can be reached during the purchase attempt activities should a problem arise.

### 3) STAKE Protocol

\* This protocol is for the **STAKE study only**. Other purchase attempt studies may have similar protocols, but the differences are very important! Make sure you know ahead of time exactly which protocol you will be working on, and do not deviate from the protocol as it is specified. If you have any questions, ask a BHI staff member.

#### 1) Pick up the youth

- a. Make sure the youth and his/her parent has a general idea of where you will be going (do not specify which stores) and how long you will be gone.
- b. Answer any questions the parent may have as best as you can. You can give the parent your cell phone number and the phone number of a BHI staff member to call in the event of an emergency.
- c. If there is no parent there when you pick up the youth leave a note for the parent and/or speak to the parent by phone.

#### 2) Drive to the store

- a. Train the youth in the purchase protocol. Remind the youth of what he/she will be doing. Some youth have worked on STAKE or other purchase attempt projects before, others have never done anything like this.
  - i. The youth may be nervous. Reassure the youth that it is ok to be nervous, but that they cannot get in trouble for participating in this project. The interactions with the clerk usually last less than a minute, they rarely ever get yelled at, and after one or two stores they won't be nervous anymore. Remind them to leave the store immediately if they ever feel unsafe or uncomfortable.
  - ii. Answer any questions the youth has about the protocol and the study in general as best as you can. If you do not know the answer to a question and it is important to know the answer right away, call a BHI staff member.
  - iii. Complete the purchase training log.
- b. Remind the youth that success is gathering complete and accurate data, not getting sales.

- i. The youth will be paid regardless of whether or not they are able to purchase any cigarettes.
    - ii. Zero sales means that the store clerks are following the law, not that the youth didn't do a good job or that he/she didn't come across as mature.
  - c. Give the youth enough money to purchase a pack of cigarettes.
  - d. Survey only those stores on the list provided.
    - i. Key on the store address. If the store sells tobacco but the name is different or the store number inaccurate then complete the purchase attempt and note the name or address changes under comments on the survey.
    - ii. If the store cannot be found check the store map as GPS can be in error. Try calling the phone number on the store map.
    - iii. If the purchase attempt cannot be completed make sure you have completed the information on the top of the survey form as well as 10. Disposition Code and 11. Comments.
  - e. Park the car where the clerk cannot see you and the youth in the car together.
    - i. The best places are on the side or back of the store, or across the street or around the corner if the only parking is in front of the store.
    - ii. You can also let the youth out of the car before you get to the store, and designate where you will pick him/her up after the purchase attempt.
- 3) You (adult) goes into the store first
- a. Before you enter the store make sure the surrounding area is safe.
    - i. If it does not look safe, decide whether it may be safe to return to the store at a later time, or if the area appears to be generally unsafe and the store should not be surveyed.
  - b. Do not take the survey form into the store – leave it in the car.
  - c. Look for signs on the outside of the store as you enter.
  - d. Once inside, look for signs inside the store and the type and location of tobacco products.

- e. Choose and purchase your \$1.00 or less item.
    - i. Ideally, you should be somewhere behind the youth in order to overhear the interaction with the clerk/customers, but you will have to use your best judgment in what you should do to avoid tipping off the clerk.
    - ii. Try to notice the gender, age and ethnicity of the clerk the youth interacts with, and the number of other clerks and customers within 10 feet.
    - iii. You do not need to get a receipt for the \$1.00 item, but if one is provided please return it with the left over money to BHI.
  - f. Intervene to protect the youth if a problem arises, otherwise maintain an unobtrusive presence.
- 4) Youth goes into the store
- a. The youth should wait approximately 10 seconds after you enter the store, or use their best judgment so that the clerk will not think that the youth and adult are together.
  - b. The youth should walk straight up to the counter and ask for a pack of Marlboro's (or Camel's if they are not comfortable saying "Marlboro").
    - i. The reason the youth are told to ask for Marlboro or Camel brands is because these are the brands smoked by the majority of minor smokers.
    - ii. If neither of these brands are sold, the youth asks for a different brand of cigarettes. If the retailer does not sell cigarettes, the youth asks for cigars. If the retailer does not sell cigars, the youth asks for chew.
    - iii. The youth must NOT purchase anything other than cigarettes (or another tobacco product). If he/she wants anything else from the store (e. g. snacks) they should tell you beforehand and you can buy it as your \$1.00 or less item.
  - c. The youth are to be truthful at all times.
    - i. If asked for his/her age, the youth should respond with his/her true age.
      - 1. This is state MANDATED. BHI is aware that youth who are actually trying to buy cigarettes usually lie and say they



are “18”, and that if they lie they are more likely to be sold the cigarettes, however **the protocol must be followed exactly – youth must be truthful about their age.**

- ii. If asked for an ID, the youth is to say “I don’t have any”.
    - 1. If the youth brought an ID with him/her, you may hold it for them so that the youth can be truthful in their answer that they do not have an ID with them. The youth should NEVER flash an ID to the clerk.
  - iii. If asked who the cigarettes are for, the youth is to say “me”.
    - 1. The youth should NEVER say the cigarettes are for their mom or dad, or a friend.
  - d. Remind the youth that **the protocol must be followed exactly**, they should not try to talk a clerk into selling the cigarettes if the clerk has said no, and they should not deviate from the protocol by making up elaborate stories or lies.
    - i. The simpler the interaction between the clerk and the youth, the better!
      - 1. It takes less time, and the youth is less likely to forget what he/she is supposed to do, or become flustered or confused.
  - e. The youth should not attempt a tobacco purchase if he/she knows the clerk(s) or customer(s) in the store.
  - f. The youth should leave the store immediately if the clerk(s) or customer(s) make him/her feel uncomfortable or the store feels unsafe.
  - g. If the clerk will sell the cigarettes to the youth, the youth should use the money provided and actually purchase the cigarettes.
    - i. The youth does not need to obtain a receipt for the cigarettes and should not ask for one.
      - 1. If a receipt is provided, it should be turned in with the left over money to BHI.
  - h. The youth should leave the store immediately after purchasing (or attempting to purchase) the cigarettes, and either return to the car or go to the designated pick up area.
- 5) Adult and youth return to the car
- a. Once inside the car, the youth should immediately give any cigarettes purchased to the adult.
    - i. Any change should also be given to the adult, and the adult should give the youth enough money to purchase a pack of cigarettes at the next store.

- ii. Remember to mark “yes” on the survey form for sale outcome, and to fill in the price of the cigarettes. Place a label on the cigarettes and write the Store ID and date on the label.
      - 1. If the youth is not sure of the price of the cigarettes, you can figure it out by subtracting the change from the amount of money the youth was originally given.
  - b. The survey form should immediately be filled out.
    - i. If you do not feel it is safe to complete the survey form outside the store, move to a safe location and then fill out the form as soon as possible.
    - ii. Fill out the survey as carefully and completely as possible. It can be very difficult to remember the details later on if you skip any of the questions.
    - iii. The youth can and should assist in filling out the survey form, but DO NOT allow them to do it completely on their own. They are not as familiar as you are with the survey form, and are more likely to make mistakes.
- 6) Finish as many stores on your route as possible
  - a. The BHI staff will try to give you a route they believe you will be able to complete in one day, but due to traffic, weather, bad directions, youth’s schedules, the unexpected, etc. you may not be able to do so.
    - i. If you are unable to complete your route, please let a BHI staff member know which stores you did not survey and why.
- 7) Take the youth to lunch
  - a. If your route lasts the entire day and/or occurs during the normal lunchtime, you should take the youth to lunch somewhere they are comfortable eating.
  - b. Try to pick a fast-food place, or someplace where the meal will cost around \$5 and will not take too long.
  - c. You should use the purchase attempt money given to you by the BHI to the youth’s meal. Get a receipt for both meals. Have youth sign the lunch log.
- 8) Return the youth to his/her home

- a. Make sure the youth returns any unused purchase attempt money.
- b. Make sure the youth takes with them anything he/she brought along (e. g. sweater, book/magazine, tapes/CDs, purse/wallet/backpack, ID).
- c. Thank the youth for participating.
- d. Let the youth know that he/she will be paid by check. It will come in the mail approximately two weeks after the paperwork has been submitted.
  - i. Provide the youth with the BHI toll free phone number 1-866-229-5756 to call if time passes by and the check does not arrive at their home.

9) Return to BHI

- a. Return the purchase attempt materials (surveys, store maps, large area maps, clipboard, pencils, money).
  - i. BEFORE you turn in your completed survey forms, look over them and try to fill in any missing information.
- b. Provide a summary of how the route went, including any problems or unusual situations.
  - i. If any stores on the route were not surveyed, explain why (e. g. closed, didn't sell tobacco, couldn't locate, etc.).

## **4) Survey Sample**

The following is a copy of the form you will use for the purchase attempt project(s).

**STATEWIDE YOUTH TOBACCO PURCHASE SURVEY 2014  
CALIFORNIA DEPARTMENT OF PUBLIC HEALTH/ CTCP**

Minor ID: \_\_\_\_\_ Survey number: \_\_\_\_\_ Minor age: \_\_\_\_\_  
 Accompanying adult ID: \_\_\_\_\_ Survey Date: \_\_\_\_\_ Minor gender: \_\_\_\_\_  
 Store ID: \_\_\_\_\_ Time of visit: \_\_\_\_\_ ( ) am ( ) pm Minor ethnicity: \_\_\_\_\_

Store Address: \_\_\_\_\_

**I. PURCHASE ATTEMPT**

1. Sale outcome: ☐ Yes ☐ No
2. Price: \$ \_\_\_\_\_
3. Type of outlet: ☐ liquor store ☐ convenience (without gas) ☐ convenience (with gas)  
☐ supermarket ☐ drug store/pharmacy ☐ donut shop  
☐ gas station only ☐ tobacco store ☐ discount store  
☐ deli/meat market ☐ gift store ☐ produce market  
☐ restaurant/café ☐ other (specify) \_\_\_\_\_
- 3a. Was the store an ethnic market? ☐ Yes ☐ No
4. Clerk characteristics: gender: ☐ man ☐ woman  
 age: ☐ Younger than 25 ☐ Older than 25  
 ethnicity: ☐ White ☐ Black ☐ Latino  
☐ Asian/PI ☐ Middle Eastern, Asian Indian and  
 surrounding countries ☐ Other \_\_\_\_\_
5. Besides the clerk who helped you, how many other people were within 10 feet of you?  
 Customers \_\_\_\_\_ Clerks \_\_\_\_\_
6. During the purchase attempt, was minor asked:  
 age ☐ Yes ☐ No  
 identification ☐ Yes ☐ No  
 whom the cigarettes were for ☐ Yes ☐ No
- 6a. If you were asked any of the above questions, indicate at which point in time the question was asked by placing a check mark in the corresponding box.

	Age	ID	Who is tobacco for?
After minor asked for cigarettes (before cashier rung up tobacco)			
After cashier rung up cigarettes			
Electronic prompt on cash register when cigarettes were rung up			
After a customer comment			
After comment from another clerk			
Other (specify) _____ _____ _____			

## II. OBSERVATIONS

### 7. Location of tobacco products in the store (check all that apply):

	Near cash register	Behind Counter	Open shelves/racks in store/self-service	Locked cases/ enclosed area (clerk access only)
cartons				
single packs				
single cigarettes				
kiddie packs				
cigars				
chewing tobacco				
bidis				
candy look alike				

### 8. Location of signs stating that sales to minors are unlawful (check all that apply):

#### FEDERAL, STATE AND LOCAL SIGNS

	Checkout counter	Tobacco display site	Doors/ windows	Other (specify)
STAKE Act sign 1-800-5ASK4ID				
Penal Code 308				
Other (specify) _____				

#### TOBACCO INDUSTRY SIGNS

	Checkout counter	Tobacco display site	Doors/ windows	Other (specify)
If You Ask/ We Ask				
It's the Law				
We CARD				
Support the Law: It Works				
Help stop underage smoking: Don't Buy Cigarettes for Kids				
Other (specify) _____				

9. Tobacco license (displayed conspicuously): ( ) Yes ( ) No

10. Disposition Code (see list): \_\_\_\_\_

11. Write all clerk, customer and other comments in space below:

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## 5) Filling out the Survey

### 1) General

- a. Quality is more important than quickness. Please fill the survey out neatly and completely at the time you are at the store. Or if it is not safe to remain outside the store after the purchase attempt, complete the survey as soon as it is safe to do so. It will be VERY difficult to remember every bit of information after you have done several stores in the same day. At the end of the day, go over all of the surveys looking for any missing information and fill it in as best as you can.
- b. If the answer to any question is “zero” or “no” please indicate so on the survey. A question that is left blank is missing data, which is different from knowing that the answer is “zero” or “no” and just not marking it on the form.
- c. You MUST make a decision. If the choices are “yes” or “no” you cannot write in “maybe”, if the choices are “younger than 25” or “older than 25” you cannot write in “25”. Sometimes it is very difficult to make a choice, but if you don’t it is considered missing data. Please make the best decision you can based on the information you have, even if you do not feel completely sure. You can ask the youth for their opinion to help you.
- d. Please fill out the survey IN PENCIL. It is much easier to make changes (if necessary) if the answers are marked in pencil.

### 2) Question by Question

- a. Minor ID
  - i. This is the identification number assigned to the youth by the BHI staff.
- b. Accompanying Adult ID
  - i. This is the identification number assigned to you by the BHI staff.
- c. Store ID
  - i. This number is located on the individual store maps, in front of the name of the store.
- d. Survey Number

- i. This number will be filled in by a BHI staff member. Please leave blank.
- e. Survey Date
  - i. This is the date the purchase attempt was completed.
- f. Time of visit:
  - i. This is the time the purchase attempt was completed.
- g. Minor Age
  - i. This is the age of the youth you completed the purchase attempt. It may be provided to you beforehand by a BHI staff member.
- h. Minor Gender
  - i. This is the gender of the youth who completed the purchase attempt.
- i. Minor Ethnicity
  - i. This is the ethnicity of the youth who completed the purchase attempt. It may be provided to you beforehand by a BHI staff member.
- j. Store Address
  - i. Write in the address of the store (do not write the store name).
- k. Sale Outcome
  - i. If the youth purchased a pack of cigarettes, mark “yes”. If no cigarettes were purchased, mark “no”.
- l. Price
  - i. Enter the price of the pack of cigarettes, ONLY if the youth did purchase a pack of cigarettes.
- m. Type of outlet
  - i. **Liquor store:** This is a store that has liquor in the store’s name or at least 50% of the merchandise consists of alcoholic beverages.
  - ii. **Convenience (without gas):** This is a store that sells designated food, beverage, and general merchandise. Examples include: AM/PM mini-marts, 7-Eleven stores.
  - iii. **Convenience (with gas):** This is a store that sells gasoline and related products, and has a designated food, beverage, and general merchandise area. Examples include: Texaco station with Star Mart, AM/PM mini-market with Arco gas, 7-Eleven with gas.



- iv. **Supermarket:** This is a large chain or independent grocery store that offers a wide variety of food, merchandise, or other services. Examples include: Raley's, Bel-Air, Vons, Safeway, Albertson's, Food-4-Less, Lucky's, Ralph's, and large independently owned grocery stores (such as the Bellflower Market).
- v. **Drug store/pharmacy:** This is a store that has as part of its name the words "drug store" or "pharmacy", and which dispenses medication through prescriptions. Examples include: Longs Drug Store, Thrifty Drug Store, Walgreen's, Rite-Aid, Sav-On Drugs, and independents (such as Phil's Pharmacy).
- vi. **Donut shop:** This is a store that has donut in the store's name or at least 50% of the merchandise consists of donuts or donut-like foods.
- vii. **Gas station only:** This is a store whose primary function is the sale of gasoline and related products. Snacks (such as candy or chips) or beverages may sometimes be sold from vending machines or from a few racks or shelves.
- viii. **Tobacco store:** This is a store that has tobacco in the store's name or at least 50% of the merchandise consists of tobacco or tobacco-related products.
- ix. **Discount store:** This is a store that sells merchandise at a discount or in bulk. It may also sell clothing, shoes, groceries, housewares, cosmetics, electronic equipment, toys, tools, and tobacco products. Examples include: K-Mart, Wal-Mart, 99 cent stores.
- x. **Deli/meat market:** This is a store that has deli or meat market in the store's name or at least 50% of the merchandise consists of sandwiches, meat, and the like.
- xi. **Gift store:** This is a store that has gifts in the store's name and/or the merchandise consists of party supplies, cards, gifts, souvenirs, or toys, rather than food or beverages.
- xii. **Produce market:** This is a store that has produce in the store's name or at least 50% of the merchandise consists of produce.
- xiii. **Restaurant/Café:** This is a store that primarily serves prepared food to customers dining on the premises.

- xiv. **Other:** If the retail outlet being surveyed does not fit in one of the above categories, please explain the characteristics and type of items sold. NOTE: this response tends to be overused. Examine the other choices carefully to be sure the store is truly an “other”. It might be best to describe the store to a BHI staff member when turning in your surveys.
- n. Was the store an ethnic market?
  - i. Mark “yes” if the store contains many or mostly items intended for minority consumers – you can tell this by noticing imported products and labels in different languages (usually Spanish or Asian languages), mark “no” if the store is a regular store.
- o. Clerk gender
  - i. This is the gender of the store clerk. If the youth interacted with more than one clerk, choose the clerk at the cash register or the clerk the youth initially asked for the cigarettes. Mark only ONE choice and do not write in genders for other clerks.
- p. Clerk age
  - i. This is the age of the store clerk. If the youth interacted with more than one clerk, choose the clerk at the cash register or the clerk the youth initially asked for the cigarettes. Mark only ONE choice and do not write in ages for other clerks. If the clerk looks exactly 25, you must still choose either older or younger. You can ask the youth for their opinion in helping you to decide.
- q. Clerk ethnicity
  - i. This is the ethnicity of the store clerk. If the youth interacted with more than one clerk, choose the clerk at the cash register or the clerk the youth initially asked for the cigarettes. Mark only ONE choice and do not write in ethnicities for other clerks. Try to avoid using the “other” category unless you really believe that the clerk is not one of the ethnicity choices listed. You can ask the youth for their opinion in helping you to decide.
- r. How many other people were within 10 feet?
  - i. This question is asking how many customers and clerks (**other than the one the youth interacted with**) were within hearing distance of the purchase attempt. The people could be in front of, behind, or next to the youth. It is already assumed that the youth interacted with one clerk, so if there were a total of two clerks within hearing distance you should mark “1”, if there were a total of three clerks you should mark “2”, etc.

- s. Was minor asked age?
  - i. You should mark “yes” if the youth was asked “How old are you?”, “What’s your age?”, “Are you 18/21?”, etc.
- t. Was minor asked [for] identification?
  - i. You should mark “yes” if the youth was asked “Can I see your ID?”, “Do you have an ID?”, etc.
- u. Was minor asked whom the cigarettes were for?
  - i. You should mark “yes” if the youth was asked “Are these for you?”, “Who are you buying these for?”, etc.
- v. When were the above questions asked?
  - i. If the answer to the age, ID, and whom are the cigarettes for questions is “no” you do not need to answer this question. If the answer to the age, ID, or whom are the cigarettes for questions is “yes”, you need to indicate at which point in the youth’s interaction with the clerk the question(s) was asked.
- w. Location of tobacco products in the store
  - i. This is where in the store you and/or the youth saw the different types of tobacco products. You can mark as many answers as apply.
- x. Location of signs stating that sales to minors are unlawful
  - i. This is where on the outside and inside of the store you and/or the youth saw the different types of signs indicating that the sale of cigarettes to minors is illegal. You can mark as many answers as apply.
  - ii. STAKE Act sign: When looking for the STAKE Act sign (which is required by law) keep in mind that while the yellow or red sticker version is the most popular and easiest to recognize, a computer-generated or hand-written sign can also fulfill the legal requirements if it meets all of the following:
    1. The sign must have all of the following words: The sale of tobacco products to persons under 18 years of age is prohibited by law and subject to penalties. Valid identification may be required. To report an unlawful sale, call 1-800 5 ASK-4-ID. *Business and Professions Code Section 22952.*
    2. The sign must be square (at least 5.5 inches by 5.5 inches) or rectangular (at least 3.66 inches by 8.5 inches), and the lettering must use specified font sizes.
    3. The sign must have bold letters and a contrasting color background.

4. The sign must be “likely to be read by a customer,” and all of the required information must be readable and not altered, covered, or erased in whole or in part.
- y. Tobacco license (displayed conspicuously)
- i. Mark “yes” if you were easily able to identify the posted tobacco license, mark “no” if the tobacco license was difficult to see or you did not see it at all.
- z. Disposition Code
- |           |  |
|-----------|--|
| <b>EC</b> | <b>Eligible and inspection complete outlet:</b> A purchase attempt was completed at the store on the list.   |
| <b>N1</b> | <b>In operation but closed at the time of the visit:</b> The store is still in business, but was closed when visited. Note hours/days when open if posted in comments. |
| <b>N2</b> | <b>Unsafe to access:</b> Describe in comments.   |
| <b>N3</b> | <b>Presence of police:</b> Describe in comments.   |
| <b>N4</b> | <b>Youth inspector knows salesperson:</b> Describe in comments.  |
| <b>N5</b> | <b>Moved to new location but not inspected:</b> Describe in comments.  |
| <b>N6</b> | <b>Drive thru only/youth inspector has no drivers license:</b> Describe in comments.   |
| <b>N7</b> | <b>Tobacco out of stock:</b> Describe in comments.   |
| <b>N8</b> | <b>Run out of time:</b> Describe in comments.  |
| <b>N9</b> | <b>Other non-completion:</b> Describe in comments. This code has been used when the youth completed the purchase protocol incorrectly.                                 |
| <b>I1</b> | <b>Out of Business:</b> Describe in comments. For example, looks empty.  |
| <b>I2</b> | <b>Does not sell tobacco products:</b> Describe in comments.   |

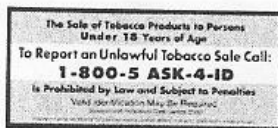
- I3 Inaccessible by youth:** Describe in comments. For example: 1) store is located after security screening, 2) ID checked at door; must be 18 to enter, 3) bar, 4) casino, and 5) located in national park.
- I4 Private club or private residence:** Describe in comments.
- I5 Temporary closure:** Describe in comments.
- I6 Un-locatable:** Describe in comments. Store is not at the address listed. Describe what is there: another store, park, or empty lot. If store address does not exist note what is there, for example, another store, park, or empty lot.
- I7 Wholesale only/Carton sale only:** Describe in comments.
- I8 Vending machine broken**
- I9 Duplicate:** Store is a duplicate.
- I10 Other ineligibility:** Describe in comments.

z. Clerk, customer and other comments

- i. All comments from clerks and customers should be written here, as well as any comments you and/or the youth have about the store, the interaction with clerks/customers, the neighborhood, or anything else related to the purchase attempt. When in doubt – write it down.

## 6) Examples of Signs & Tobacco License

### Federal, State and Local:



STAKE Act

The sale of tobacco products to persons under 18 years of age is prohibited by law and subject to penalties. Valid identification may be required. To report an unlawful sale, call 1-800 5 ASK-4-ID. Business and Professions Code Section 22952.

Alternate STAKE Act



Penal Code 308

### Tobacco Industry:



We Card



It's the Law



Don't Buy Cigarettes for Kids

### Tobacco License:

CALIFORNIA STATE BOARD OF EQUALIZATION

**CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003**

**RETAILER'S LICENSE**

LICENSE NUMBER \_\_\_\_\_

BUSINESS MAILING ADDRESS: \_\_\_\_\_

LOCATION ADDRESS: \_\_\_\_\_

IS HEREBY AUTHORIZED TO ENGAGE IN THE SALE OF CIGARETTES AND TOBACCO PRODUCTS.


THIS LICENSE IS VALID FOR THE EFFECTIVE DATE OR UNTIL SUSPENDED, REVOKED, OR CANCELED, AND IS NOT TRANSFERABLE.

BOE-442-LR (4-04)

**EFFECTIVE DATE:**

THIS LICENSE HAS BEEN ISSUED TO YOU UNDER DIVISION 8.6 (COMMENCING WITH SECTION 22970) OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE.

**NOT VALID AT ANY OTHER LOCATION ADDRESS.**



## 7) Hints and Recommendations

- 1) Prepare as much as possible BEFORE you hit the road.
  - a. Have everything you need (surveys, store maps, large area maps, clipboard, pencils, money, address and phone number of youth, immunity letter, BHI staff member phone number).
  - b. Confirm with the youth the night before the time you plan to pick him/her up the next day.
  - c. Fill out as much of the surveys as possible (i. e. study type, store address, store ID, adult ID, minor ID, survey date, minor gender, minor age, and minor ethnicity).
    - i. It MAY happen that some of these things need to be changed, but generally you will be more organized and save time by doing this beforehand.
    - ii. DO NOT fill in the survey number – this will be filled out by a BHI staff member.
  - d. Look over your directions and maps. The best way to avoid getting lost in the first place is to anticipate what parts of the route might be tricky, and generally familiarize yourself with where you are going, including the major roads and landmarks. If you do get lost (or think you might be) STOP WHERE YOU ARE, check your maps, and ask someone for directions if necessary. The youth may or may not be helpful.
- 2) Finding Stores
  - a. Go first by the address, then the store name. Store names change all the time – it may have changed since the time the verification call was made.
  - b. Addresses and names may be very small or non-existent. You may need to get out of the car and walk up and down a street to find a particular store. Stores may be inside other buildings (e. g. a deli may be located inside a big office building) or malls. If not sure, you may need to ask someone, “Is this \_\_\_\_\_?”
  - c. When all else fails, call the store. You can say you’re supposed to meet someone there and you’re not exactly sure where the store is located.

3) Stalling in the Store

- a. If you need to increase the amount of time spent in a store to check out signs or where tobacco products are located, or to overhear the purchase attempt, try tying your shoes, counting your change, flipping through magazines, or walking around the whole store like you can't find something. Paying with large bills and getting in lines with lots of customers also takes more time.

4) Keep the Youth Happy

- a. The happier the youth is, the happier you will be!
  - i. Let them choose the radio station (for as long as you can stand it).
  - ii. Let them choose the \$1.00 items you buy.
  - iii. Let them choose where to eat lunch.
  - iv. Try to engage them in conversation.
  - v. Involve them as much as they are willing and able.
    - 1. Some of the youth will be very interested in helping with directions, filling in the survey, taking the photos, etc. It is fine to let them assist you, but beware that they may not all be very capable – **you need to double-check their work.**
- b. BHI (or another agency) may need to work with the youth in the future, so try to make it a positive experience.



## **8) STAKE – What is it?**

The following documents are intended to provide information on what the STAKE Act is and how it impacts retailers.

# **Tobacco Control Laws**

**That  
Affect  
Retail  
Businesses  
Updated 2013**



***An Important Message  
from the California  
Department of  
Public Health  
and the Attorney  
General's Office***



**Stop Tobacco Access to Kids  
ENFORCEMENT ACT**

## Dear Business Owner:

This January 2013 brochure contains basic information on the state and federal tobacco control laws that affect retail businesses. Retailers must comply with both state and federal laws. Additionally, many cities and counties regulate the sale and distribution of tobacco products and issue licenses that authorize the sale of tobacco products. Retailers must also comply with local laws where they exist. Check with your local health department regarding local laws that may apply to your retail business regarding the sale and distribution of tobacco products.

Information is also available on the Internet at:

- State Laws:  
[www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)
- California Attorney General's Office, Tobacco Litigation and Enforcement Section:  
[www.caag.state.ca.us/tobacco](http://www.caag.state.ca.us/tobacco)
- California State Board of Equalization: [www.boe.ca.gov](http://www.boe.ca.gov)
- Food and Drug Administration, Center for Tobacco Products  
[www.fda.gov/breakthechain](http://www.fda.gov/breakthechain)
- List of Local Health Department Tobacco Control Program Contacts: <http://www.cdph.ca.gov/programs/tobacco/Pages/LocalHealthDepartmentPrograms.aspx>

Words in **bold type** are defined in the glossary. Your local health department can advise you of additional local tobacco control laws that affect your business.

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## ***At a Glance—*** **How to Comply with the Laws**

### **When you get a tobacco retail license issued by the California State Board of Equalization (BOE), you must**

- **DISPLAY** your license so your customers can see it.
- **KEEP** complete, readable purchase invoices for cigarettes and tobacco products for four years.
- **KEEP** purchase invoices for cigarette and tobacco products in the same store where the purchased items are being sold for at least one year after the date of purchase.
- **HAVE** your cigarette and tobacco products purchase invoices available for review by BOE staff or law enforcement officers.

### **How to prevent tobacco sales to minors**

- **MAKE SURE** your employees always ask customers who look younger than 27 years old for IDs and check the birthdates carefully.
- **ACCEPT** only valid government-issued photo IDs (driver's license, state ID, passport, military ID).

### **When you train employees to prevent tobacco sales to minors**

- **TRAIN** your employees who sell tobacco products so that they

understand all the laws and company rules about selling tobacco products. Also include training on the health-related reasons to not sell tobacco products to minors.

- **TEACH** employees how to check for age. Have them practice how to figure out someone's age from an ID. Also teach them how to act and what to say when they have to refuse to sell to someone.
- **PROVIDE** more training if any employee breaks the law or store rules.
- **GIVE** employees written copies of the tobacco laws and store rules. Have them sign the copies to show that they have read and understood them.

### **How can you help employees comply with the law?**

- **POST** the required *Stop Tobacco Access to Kids Enforcement (STAKE) Act* age-of-sale warning signs. Also post signs to remind employees and inform customers that anyone who looks under age 27 will be asked for ID.
- **KEEP** aids at the checkout or register to help employees figure out age (calendars, register prompts, electronic ID scanning system, etc.).

### **Be sure you are complying with the laws!**

- **NO** tobacco products or **tobacco paraphernalia** sold to anyone under age 18
- **NO self-service display** of tobacco products or paraphernalia (with limited exceptions for cigars, pipe tobacco, snuff, and chew/dip in tobacco-only stores)

- NO sales of single cigarettes or cigarette packs with less than 20 cigarettes
- NO **tobacco samples** in your store (with limited exceptions)
- NO sales of **bidis** in businesses that allow minors
- NO sales of flavored cigarettes, or flavored cigarette components, such as roll-your-own tobacco and cigarette **tobacco paraphernalia** such as filters or papers (with an exception for menthol flavoring)
- NO tobacco vending machines except in bars where minors are not allowed
- POST the required **STAKE Act** age-of-sale warning signs at each cash register

## License Requirements

### ✓ *California Cigarette and Tobacco Products Licensing Act of 2003*

Under the *California Cigarette and Tobacco Products Licensing Act of 2003*, businesses in California that sell cigarettes and other tobacco products to the public must have a California Cigarette and Tobacco Products License. This is true even if you have a seller's permit, or other permits or licenses issued by the BOE or a local government.

### **WHO is required to have a license?**

Since June 30, 2004, sellers of cigarettes and other tobacco products in California

must have a license to sell cigarettes or tobacco products to the public from a building or vending machine. You must have a separate license for each location or vending machine. Whenever you add a new location where you sell tobacco products, you must get a separate license for that location.

You must obtain a distributor's license if you buy tobacco products either from an out-of-state seller who is not licensed under this Act or a California licensed importer. You must get a wholesaler's license if you buy tax-paid cigarettes or tobacco products for resale. Either license costs \$1,000 per year for each location where you sell or distribute tobacco products.

You can contact the BOE Special Taxes and Fees Division at (800) 400-7115 to learn more about becoming a licensed California Distributer or Wholesaler.

### **HOW much does a state tobacco retailer's license cost?**

There is a one-time fee of \$100 for *each* license for *each* location or vending machine where you sell cigarettes or tobacco products to the public. A license is good for a 12-month period and must be renewed every year. You do not have to pay a fee to renew the license.

However, if you fail to renew your license before its expiration date, there is an additional \$100 fee to reinstate your license.

## HOW do I get a state tobacco license?

You can apply online for accounts, license and permits using eRegistration (eReg) available on BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov). eReg is also available in BOE's field offices. Please contact BOE's Taxpayer Information Section for assistance at (800) 400-7115.

**Note:** You cannot legally sell any tobacco products until you receive your Cigarette and Tobacco Products Retailer's license.

In addition to the state licensing requirement for retail tobacco sales, many city and county governments have additional licensing requirements. Check with your local business license department for more information.

## WHAT if my license is suspended or revoked?

If your state tobacco license is suspended or revoked, you cannot sell, display for sale, or give away any tobacco products. Cigarettes and tobacco products also cannot be placed in a vending machine or retail stock during a license suspension. Retailers must also post a notice of suspension or revocation at each public entrance, cash register, and other point of sale. The penalties for selling, displaying, or giving away tobacco products range from a \$1,000 fine to seizure of all the tobacco products in your possession.

## ✓ As a license holder, you must

- **DISPLAY** your license where the public can easily read it. Failure to do so is an automatic fine of \$500. Your license may also be taken away temporarily or permanently.
- **KEEP** complete and readable purchase invoices for cigarettes and tobacco products for four years. Failure to do so may result in a fine of up to \$5,000 and/or imprisonment for up to one year in a county jail. Keep these invoices at each licensed location where you are selling the tobacco products for at least one year after the purchase date.
- **LET** BOE staff or law enforcement officers see your cigarette and tobacco products purchase invoices when they ask you for them. The law also allows BOE staff and law enforcement officers to take any untaxed cigarettes and tobacco products, including cigarettes without stamps or with counterfeit tax stamps. If you refuse to allow an inspection, you are breaking the law and may be fined.

## Purchase Invoice Requirements

The invoices you get from wholesalers and distributors licensed under the *California Cigarette and Tobacco Products Licensing Act of 2003* must have the following information:

- The name of the wholesaler or distributor who sold you the cigarettes or tobacco products

- The address, telephone number, and license number of the wholesaler or distributor
- The amount of excise tax paid to the BOE. An invoice must say that all California cigarette and tobacco product taxes are included in the total amount of this invoice
- Retailer's name, address, and license number
- An itemized list of the products sold

### Illegal Purchases

It is against the law for you to buy cigarettes or tobacco products from a seller who is not licensed under the *California Cigarette and Tobacco Products Licensing Act of 2003*. If you make an illegal purchase, your license may be taken away temporarily or permanently. You may also be fined and/or sent to prison.

**Note:** A list of California-licensed distributors and wholesalers is on the Board of Equalization website at:

[www.boe.ca.gov/sptaxprog/pdf/AB71Distrib.pdf](http://www.boe.ca.gov/sptaxprog/pdf/AB71Distrib.pdf), and

[www.boe.ca.gov/sptaxprog/pdf/AB71Wholsr.pdf](http://www.boe.ca.gov/sptaxprog/pdf/AB71Wholsr.pdf).

## Laws about Selling to Minors

**✓ Selling tobacco to anyone under the age of 18 is against the law. Anyone younger than 18 years old is a minor.**

Two California laws prohibit selling tobacco to minors: ***Penal Code Section 308*** and the ***STAKE Act***, Business and Professions Code Section 22950–22963.

### ***Penal Code Section 308***

- It is a crime to sell, give, or in any way supply tobacco products and paraphernalia to minors.
- Signs with the “1-800-5 ASK-4-ID” phone number must be posted at each cash register.

### WHAT are the penalties?

Storeowners and/or clerks who sell to minors may be charged with a misdemeanor or may be fined: \$200 for the first violation, \$500 for the second violation, and \$1,000 for the third violation.

### WHO enforces this law?

Local law enforcement agencies.

### ***STAKE Act***

- Outlaws selling or giving tobacco products to minors.
- Sellers must check the ID of anyone who looks younger than age 18.
- Signs with the “1-800-5 ASK-4-ID” phone number must be posted at each cash register or point of purchase.
- The state health department, and any state agency or local enforcement agency, may use **youth decoys** in on-site inspections to determine if retailers are selling illegally to youth.
- **Youth decoys** involved in law enforcement inspections will show a



legal ID with their real age if asked, but they do not have to state their real age.

- There are three ways your business can be inspected: at random, in response to public complaints, or if it has been found in violation at previous inspections.
- Illegal sales of tobacco to minors made over the phone, through the mail, or via the Internet may also be investigated.

### WHAT are the penalties?

Penalties under *STAKE Act* are enforced against store owners—not employees.

- \$400–\$600 for the first violation
- \$900–\$1,000 for the second violation within a five-year period
- \$1,200–\$1,800 for a third violation within a five-year period
- \$3,000–\$4,000 for a fourth violation within a five-year period
- \$5,000–\$6,000 for a fifth violation and each additional violation within a five-year period

Effective January 1, 2013, if a business has been assessed a civil penalty for the third, fourth, or fifth *STAKE Act* violation in a five-year period, the California Department of Public Health is required to notify the BOE. The BOE may impose additional penalties upon these businesses. The additional penalties include the assessment of a civil penalty of \$250 and suspension or revocation of the retailer's license per the following schedule:

- A 45-day suspension of the license for a third violation at the same location within a five-year period.
- A 90-day suspension of the license for a fourth violation at the same location within a five-year period.
- Revocation of the license for a fifth violation at the same location within a five-year period.

### WHO enforces this law?

The Food and Drug Branch of the California Department of Public Health is the primary enforcing agency, but any state agency or local law enforcement agency may also enforce the *STAKE Act*.

For free signs and educational materials about the *STAKE Act*, call the *STAKE Act* hotline at (800) 527-5443.

Please refer to the section “Requirements about Storefront Ads” on pg. 15 for more information about required *STAKE Act* signage.

The federal *Family Smoking Prevention and Tobacco Control Act* (referred to as the “*2009 Tobacco Control Act*”), also prohibits tobacco sales to minors.

### 2009 Tobacco Control Act

- It is unlawful to sell cigarettes or smokeless tobacco to minors.
- Retailers must check the photo identification of any person under the age of 27.

### WHAT are the penalties?

Penalties under the *2009 Tobacco Control Act* are enforced against store owners.



- A warning letter for the first violation
- Up to \$250 for the second violation within a one-year period
- Up to \$500 for the third violation within a two-year period
- Up to \$2,000 for the fourth violation within a two-year period
- Up to \$5,000 for the fifth violation within a three-year period
- Up to \$10,000 for the sixth and subsequent violations in a four-year period
- After the fifth violation over a three-year period, store owners may also receive a no-tobacco-sale order. This prohibits the sale of tobacco products permanently or for a specified period of time.

These fines apply to retailers with a training program that meets certain FDA criteria. Fines can be increased for retailers without an approved training program. For more information, please visit [www.fda.gov/breakthechain](http://www.fda.gov/breakthechain).

### **WHO enforces this law?**

FDA officers or employees, officers or employees of other federal departments or agencies, or certain state officers or employees commissioned by the FDA.

To find out about additional local tobacco control laws where you live, contact your local law enforcement agency or local health department's tobacco control program.

## **Laws about Self-Service Displays**

### **✓ *Customers may not help themselves to cigarettes and other tobacco products and paraphernalia.***

As of January 1, 2005, the **self-service display** of tobacco products is a violation of the **STAKE Act**. Tobacco products include cigarettes, chewing tobacco, dipping tobacco, snuff, cigars, **bidis**, pipe tobacco, roll your own tobacco, and any other product containing tobacco. A **self-service display** allows access to products by customers without help from a clerk. The **self-service display of tobacco paraphernalia** is also against the law.

The **2009 Tobacco Control Act** also prohibits the self-service display of certain tobacco products. As of June 22, 2010, cigarettes and smokeless tobacco products can only be sold in a direct, face-to-face exchange with the customer.

### **WHAT is tobacco paraphernalia?**

**Tobacco paraphernalia** includes cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments or things designed for the smoking or ingestion of tobacco products.

### **ARE there any exceptions?**

The law contains certain exceptions

which apply only to **tobacco stores**. These are stores that generate more than 60% of gross annual revenue from the sale of tobacco products and paraphernalia, prohibit unaccompanied minors, and do not sell alcohol or food for consumption on the premises. **Tobacco stores** may have **self-service displays** of pipe tobacco, or cigars in packages of six or more in the original wrapping.

### **WHAT are the penalties?**

If you break the law, you may be fined the following amounts:

- \$400–\$600 for the first violation
- \$900–\$1,000 for the second violation within a five-year period
- \$1,200–\$1,800 for a third violation within a five-year period
- \$3,000–\$4,000 for a fourth violation within a five-year period
- \$5,000–\$6,000 for a fifth violation and each additional violation within a five-year period

### **WHO enforces the law?**

The Attorney General, a city attorney, a county counsel, or a district attorney

### **ARE there any exceptions?**

Vending machines and **self-service displays** are permitted only in a facility where minors are not allowed at any time under any circumstance.

### **DOES the law apply to cigars?**

No. The *2009 Tobacco Control Act*

provisions on **self-service displays** apply only to cigarettes and smokeless tobacco at this time.

### **WHAT are the penalties?**

Penalties under the *2009 Tobacco Control Act* are enforced against store owners.

- A warning letter for the first violation
- Up to \$250 for the second violation within a one-year period
- Up to \$500 for the third violation within a two-year period
- Up to \$2,000 for the fourth violation within a two-year period
- Up to \$5,000 for the fifth violation within a three-year period
- Up to \$10,000 for the sixth and subsequent violations in a four-year period
- After the fifth violation over a three-year period, store owners may also receive a no-tobacco-sale order. This prohibits the sale of tobacco products permanently or for a specified period of time.

These fines apply to retailers with a training program that meets certain FDA criteria. Fines can be increased for retailers without an approved training program. For more information, please visit [www.fda.gov/breakthechain](http://www.fda.gov/breakthechain).

### **WHO enforces this law?**

FDA officers or employees, officers or employees of other federal departments or agencies, or certain state officers or employees commissioned by FDA.

## Requirements about Signs and Storefront Ads

### ✓ *You must post a STAKE Act age-of-sale warning sign at each cash register.*

Every business that sells tobacco must post a **STAKE Act** age-of-sale warning sign to where tobacco sales take place, such as near a cash register. It is against the law to not post this sign.

- The sign must have all of the following words:

**The Sale of Tobacco Products to Persons Under 18 Years of Age is Prohibited by Law and Subject to Penalties. Valid Identification May Be Required. To Report an Unlawful Tobacco Sale, Call 1-800-5 ASK-4-ID. Business and Professions Code Section 22952.**

- The sign must be square (at least 5.5 inches by 5.5 inches) or rectangular (at least 3.66 inches by 8.5 inches), and the lettering must use specified font sizes.
- The sign must have bold letters and a contrasting color background.
- The sign must be “likely to be read by a customer,” and all of the required information must be readable and not altered, covered, or erased in whole or in part.

## WHERE can I get free signs?



You can get free signs by contacting the Tobacco Education Clearinghouse of California at (800) 258-9090 x103 or [www.TobaccoFreeCatalog.org](http://www.TobaccoFreeCatalog.org). You can also get them at your local health department tobacco control program.

**Note:** The *We Card* sign provided by the tobacco industry does not meet the state law requirements.

## WHAT are the penalties?

If you do not post signs at each cash register, you may be fined the following amounts under the **STAKE Act**:

- \$200 for the first violation
- \$500 for each additional violation

(Note: there are alternative penalties available under *Penal Code Section 308*.)

## WHO enforces this law?

The Food and Drug Branch of the California Department of Public Health is the primary enforcing agency, but any state agency and local law enforcement agency may also enforce this law.

✓ ***Outdoor and storefront signs advertising tobacco may not be more than 14 square feet.***

Under the Tobacco Master Settlement Agreement between California and the major tobacco companies, signs advertising cigarettes and smokeless tobacco that are displayed outside a tobacco retail store, or on a window facing outward, may not be more than 14 square feet. “Mosaics” (ads placed next to each other) are also not allowed if the display is larger than 14 square feet.

**WHO enforces the Tobacco Master Settlement Agreement?**

The California Attorney General.

## Laws about Tobacco Packaging

✓ ***Sales of individual cigarettes are prohibited.***

- It is a violation of *Penal Code Section 308* to sell single cigarettes. Cigarettes must be sold in the sealed and properly labeled packaging of the manufacturer or importer, which meets federal labeling requirements.
- Cigarettes may not be manufactured for sale, distributed, sold, or offered for sale in packages of fewer than 20 cigarettes.

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- Roll-your-own tobacco may not be manufactured for sale, distributed, sold, or offered for sale in a package containing less than 0.60 ounces of tobacco.

**WHAT are the penalties?**

Any person, firm, corporation, or business that breaks this law may be fined the following amounts:

- \$200 for the first violation
- \$500 for the second violation
- \$1,000 for each subsequent violation

**WHO enforces the law?**

Local law enforcement agencies may enforce this law. The Attorney General, a district attorney, a county counsel, or a city attorney may bring a civil action.

The **2009 Tobacco Control Act** also prohibits the sale of single cigarettes. Cigarettes cannot be sold in packages of less than 20 cigarettes. There is a limited exception for packaged single cigarette sales from vending machines in locations where minors are prohibited at all times.

**WHAT are the penalties?**

Penalties under the **2009 Tobacco Control Act** are enforced against store owners.

- A warning letter for the first violation
- Up to \$250 for the second violation within a one-year period
- Up to \$500 for the third violation within a two-year period
- Up to \$2,000 for the fourth violation within a two-year period

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- Up to \$5,000 for the fifth violation within a three-year period
- Up to \$10,000 for the sixth and subsequent violations in a four-year period
- After the fifth violation over a three-year period, store owners may also receive a no-tobacco-sale order. This prohibits the sale of tobacco products permanently or for a specified period of time.

These fines apply to retailers with a training program that meets certain FDA criteria. Fines can be increased for retailers without an approved training program. For more information, please visit [www.fda.gov/breakthechain](http://www.fda.gov/breakthechain).

### **WHO enforces this law?**

FDA officers or employees, officers or employees of other federal departments or agencies, or certain state officers or employees commissioned by the FDA.

## **Restrictions on the Sale of Bidis**

**✓ Selling Bidis is against the law at most retail locations.**

The sale, offer for sale, distribution, or importation of “**bidis**” (also known as “beedies”) is a violation of **Penal Code Section 308** except where minors (persons under the age of 18) are not allowed.

### **WHAT are “bidis”?**

**Bidis** are hand-rolled cigarettes containing tobacco wrapped in temburi or tendu leaf that are imported mainly from India and some Southeast Asian countries. They come in a variety of candy-like flavors and often are sold in packs of fewer than 20.

### **WHAT are the penalties?**

You may be fined up to \$2,000 every time you break the law.

### **WHO enforces the law?**

Local law enforcement agencies may enforce this law. The Attorney General, a district attorney, a county counsel, or a city attorney may bring a civil action.

## **Restrictions on the Sale of “Light,” “Low,” and “Mild” Tobacco Products**

**✓ Selling “light,” “low,” and “mild” tobacco products is against the law in most situations.**

As of July 22, 2010, the **2009 Tobacco Control Act** requires that tobacco manufacturers cannot sell products to retailers with labeling that includes the descriptors “light,” “low,” “mild,” or other similar words.

### **ARE there any exceptions?**

Retailers can only sell their existing supply of these products after July 22, 2010.

## WHAT are the penalties?

Penalties under the **2009 Tobacco Control Act** are enforced against store owners.

- A warning letter for the first violation
- Up to \$250 for the second violation within a one-year period
- Up to \$500 for the third violation within a two-year period
- Up to \$2,000 for the fourth violation within a two-year period
- Up to \$5,000 for the fifth violation within a three-year period
- Up to \$10,000 for the sixth and subsequent violations in a four-year period
- After the fifth violation over a three-year period, store owners may also receive a no-tobacco-sale order. This prohibits the sale of tobacco products permanently or for a specified period of time.

These fines apply to retailers with a training program that meets certain FDA criteria. Fines can be increased for retailers without an approved training program. For more information, please visit [www.fda.gov/breakthechain](http://www.fda.gov/breakthechain).

## WHO enforces this law?

FDA officers or employees, officers or employees of other federal departments or agencies, or certain state officers or employees commissioned by the FDA.

## Restrictions on the Sale of Flavored Cigarettes

**✓ Selling flavored cigarettes, other than menthol, is against the law.**

- As of September 22, 2009, the **2009 Tobacco Control Act** prohibits cigarettes that contain a flavor or spice other than menthol.
- Clove cigarettes are also prohibited.

## WHAT are the penalties?

Penalties under the **2009 Tobacco Control Act** are enforced against store owners.

- A warning letter for the first violation
- Up to \$250 for the second violation within a one-year period
- Up to \$500 for the third violation within a two-year period
- Up to \$2,000 for the fourth violation within a two-year period
- Up to \$5,000 for the fifth violation within a three-year period
- Up to \$10,000 for the sixth and subsequent violations in a four-year period
- After the fifth violation over a three-year period, store owners may also receive a no-tobacco-sale order. This prohibits the sale of tobacco products permanently or for a specified period of time.

These fines apply to retailers with a training program that meets certain FDA criteria. Fines can be increased for retailers without an approved training program.

For more information, please visit  
[www.fda.gov/breakthechain](http://www.fda.gov/breakthechain).

### **WHO enforces the law?**

FDA officers or employees, officers or employees of other federal departments or agencies, or certain state officers or employees commissioned by the FDA.

## **Restrictions on Tobacco Samples**

✓ *The distribution of free or low-cost tobacco products or coupons is against the law.*

### **Coupons, rebates, and gift certificates**

California Health and Safety Code 118950 prohibits the distribution of free or low-cost tobacco products. Giving away coupons, rebates, and gift certificates for free or low-cost tobacco products is also illegal.

### **ARE there any exceptions?**

Coupons, rebates, and gift certificates can be distributed in connection with the sale of another item, for example, tobacco products or cigarette lighters.

### **WHAT are the penalties?**

If you break the law, you may be fined the following amounts:

- \$200 for the first item

- \$500 for the second item
- \$1,000 for each item after that

### **WHO enforces this law?**

The Attorney General or a local prosecutor.

## **Sampling Restrictions**

As of June 22, 2010, the **2009 Tobacco Control Act** prohibits the free distribution of all tobacco products. The only exception is smokeless tobacco, in which ONE 15-gram package of smokeless tobacco can be given per adult customer. All give-aways must take place in a qualified Adult-Only Facility (AOF). AOFs are not permitted at basketball, baseball, football, soccer, or hockey events.

### **The AOF must:**

- Have a law enforcement officer present to check photo ID and limit access only to adults
- Not serve, sell, or distribute alcohol
- Be a temporary, enclosed structure created for the purpose of distributing smokeless tobacco samples
- Have an interior which is not visible from outside the structure, unless a person makes an unreasonable attempt to see inside

### **WHAT are the penalties?**

Penalties under the **2009 Tobacco Control Act** are enforced against store owners.

- A warning letter for the first violation
- Up to \$250 for the second violation within a one-year period

- Up to \$500 for the third violation within a two-year period
- Up to \$2,000 for the fourth violation within a two-year period
- Up to \$5,000 for the fifth violation within a three-year period
- Up to \$10,000 for the sixth and subsequent violations in a four-year period
- After the fifth violation over a three-year period, store owners may also receive a no-tobacco-sale order. This prohibits the sale of tobacco products permanently or for a specified period of time.

These fines apply to retailers with a training program that meets certain FDA criteria. Fines can be increased for retailers without an approved training program. For more information, please visit [www.fda.gov/breakthechain](http://www.fda.gov/breakthechain).

### WHO enforces the law?

FDA officers or employees, officers or employees of other federal departments or agencies, or certain state officers or employees commissioned by the FDA.

## Citations

To access electronic copies of the laws cited here, please visit the following:

- **California Health and Safety Code**  
[www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)  
*California Health and Safety Code Section 118950*
- **Cigarette and Tobacco Products Licensing Act of 2003**

[www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)

*Business and Professions Code Sections 22970-22995*

- **Family Smoking Prevention and Tobacco Control Act (2009 Tobacco Control Act)**

[www.fda.gov/TobaccoProducts/default.htm](http://www.fda.gov/TobaccoProducts/default.htm)

- **Penal Code Section 308**

[www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)  
**Penal Code Section 308**

- **Stop Tobacco Access to Kids Enforcement (STAKE) Act**

[www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html)

*Business and Professions Code Section 22950-22963*

- **Tobacco Master Settlement Agreement**  
<http://ag.ca.gov/tobacco/msa.php>

## Glossary

**2009 Tobacco Control Act:** see *Family Smoking Prevention and Tobacco Control Act*

**bidis:** imported, hand rolled cigarettes containing tobacco wrapped in temburi or tendu leaf

**California Cigarette and Tobacco Products Licensing Act of 2003:** state law that requires California businesses to have a license to sell cigarettes and other tobacco products to the public

**Family Smoking Prevention and Tobacco Control Act:** federal law that authorizes the Food and Drug Administration to



regulate tobacco products; the law places several restrictions on the sale of cigarettes and smokeless tobacco products

**mosaics or mosaic ads:** ads placed next to each other on windows, doors, or walls

**Penal Code Section 308:** a state law that makes it a crime to sell or give tobacco products or paraphernalia to minors

**self-service display:** a display of tobacco products and tobacco paraphernalia that the public can access without help from a clerk

**STAKE Act:** the Stop Tobacco Access to Kids Enforcement Act is a state law that outlaws selling or giving tobacco products or paraphernalia to minors and places other restrictions on the sale of tobacco products

**tobacco paraphernalia:** cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments designed for the smoking or ingestion of tobacco products

**tobacco samples:** free or nearly free cigarettes or smokeless tobacco, or coupons, coupon offers, or rebate offers for these products

**tobacco stores:** stores that make more than 60% of gross annual revenue from the sale of tobacco products and paraphernalia, that prohibit unaccompanied minors, and that do not sell alcohol or food for consumption on the premises. This definition only applies for the purposes of self-service display laws.

**We Card:** a program of the Coalition for Responsible Tobacco Retailing that reminds retailers to check customer ID for tobacco purchases. We Card signs do not meet the requirements for signage under the **STAKE Act** and should not be used instead of **STAKE Act** signs.

**youth decoys:** youth who participate in law enforcement inspections of tobacco retail stores

## DISCLAIMER

This material has been prepared for informational purposes only, and it may or may not reflect the most current legal developments. The State of California Department of Public Health, California Tobacco Control Program and the Attorney General's office have provided this brochure as a guide to the current laws regulating tobacco sales and use in California (at the time of this printing). **THIS IS NOT LEGAL ADVICE.** The reader is advised that laws frequently change, and it is your responsibility to keep current with those legal requirements that affect the operation of your business or your personal conduct.



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Funded under contract #10-10046.

Order online: [www.TobaccoFreeCatalog.org](http://www.TobaccoFreeCatalog.org)

Updated January 2013

J591-1/13

## **9) Certificate of Auto Insurance**

The SDSU Research Foundation is able to provide Auto Physical Damage insurance coverage on all vehicles rented by SDSURF employees, principle investigators, and project staff who conduct SDSURF business-related activities. The purchase of additional insurance coverage at the time of the auto rental is not needed. Each purchase attempt project requires that the research assistant carry with him/her the corresponding Certificate of Auto Insurance, in the instance that a car rental agency should require proof of insurance.



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
7/2/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Alliant Insurance Services, Inc. Warren G. Johnson 701 B Street, 6th floor San Diego CA 92101		<b>CONTACT NAME:</b> Susan Sgroi <b>PHONE (A/C, No. Ext.):</b> 619-849-3943 <b>FAX (A/C, No.):</b> 619-699-2146 <b>E-MAIL ADDRESS:</b> ssgroi@alliant.com	
<b>INSURED</b> San Diego State University Research Foundation 5250 Campanile Drive San Diego CA 921821949		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: CSURMA AORMA INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

**COVERAGES**

CERTIFICATE NUMBER: 1540438911

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/POP AGG \$ \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			AORMA-1314-01	7/1/2013	7/1/2014	COMBINED SINGLE LIMIT (Ea accident) \$5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE  DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	<b>HIRED/NONOWNED APD</b>			AORMA-1314-01	7/1/2013	7/1/2014	LIMIT DEDUCTIBLE \$50,000 \$1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

**CERTIFICATE HOLDER**

CANCELLATION 10 day notice for non-payment

EVIDENCE OF INSURANCE COVERAGES SDSU RESEARCH FOUNDATION 5250 CAMPANILE DRIVE SAN DIEGO CA 92182-1949	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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ACORD 25 (2010/05)

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## **10) Letter(s) of Immunity**

Each purchase attempt project requires that the research assistant carry with him/her at all times the corresponding letter of immunity to protect both himself/herself and the youth participant.



RON CHAPMAN, MD, MPH  
Director & State Health Officer

State of California—Health and Human Services Agency  
California Department of Public Health



EDMUND G. BROWN JR.  
Governor

FEB 03 2014

TO: STAKE ACT SURVEY PARTICIPANT

SUBJECT: STAKE ACT SURVEY

The bearer of this letter is participating in an official Tobacco Sales to Minors Survey being conducted by the San Diego State University, Behavioral Health Institute, during the months of February through June 2014, on behalf of the California Department of Public Health (CDPH), California Tobacco Control Program (CTCP). The Tobacco Sales to Minors Survey will document the rate at which minors can purchase tobacco from retail stores. This survey is being conducted as required by law under the Stop Tobacco Access to Kids Enforcement (STAKE) Act (California Business and Professions Code, Section 22950-22963).

The goal of this law is to reduce and eventually eliminate the unlawful sale of tobacco to youth under 18 years of age. A requirement of the STAKE Act is for CDPH to report to the Federal Government the annual rate of unlawful sales of tobacco to youth and the effectiveness of enforcement efforts. This survey is being conducted to address this requirement, as well as reporting requirements of federal law, Section 1926 of Title XIX of the Public Health Service Act (42 U.S.C. 300x-26).

Your support and cooperation is appreciated. If you have any questions, please contact Xueying Zhang, Research Scientist, Evaluation Unit, CTCP at (916) 449-5485.

Sincerely,

Drew Johnson  
Acting Division Chief  
Division of Chronic Disease and Injury Control

## 11) Contact Information

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